**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

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| In the Matter of | ) | |
| | ) | |
| **Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them** | ) | PR Docket No. 92-235 |
| | ) | |
| **Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Radio Services** | ) | |

To: The Commission

**REPLY COMMENTS**
**OF THE**
**PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION**

Respectfully submitted,

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**SUMMARY**

The Personal Communications Industry Association ("PCIA"), respectfully submits its Reply Comments in response to the Comments filed in the above-captioned proceeding.

In addition to the consolidation plan proposed by PCIA, ITA, et. al., three other consolidation plans were proposed to the Commission. While each plan has some merit, the deficiencies with each proposal require PCIA to withhold supporting any of the plans.

The "Coalition" Plan, which would create four pools (Public Safety, Business, Industrial/Utilities and Land Transportation) is needlessly complicated and separates services currently sharing frequencies. There is no demonstrated need for a separate Land Transportation pool, nor is there a sound rationale for separating the Special Industrial Radio Service from other industrial services.

UTC proposes that the Commission create three pools (Emergency Response, Public Service and Business). While UTC's pool proposal could be an acceptable compromise, the limitation of interservice sharing and resale only into "lower services" is completely unacceptable. There is no basis to limit access to available spectrum by ANY user just because UTC deems certain services "special" and worthy of being able to warehouse spectrum. Similarly, service eligibles should not be limited in their ability to share excess capacity. This could result in added costs for utility eligibles in rural areas, for example, which would be unable to share excess capacity with other users and spread the

cost of implementing an advanced technology system. The limitation could also inhibit or prevent licensees from being able to "clear" spectrum for exclusive use or advanced technology systems where one or more of the incumbent users is from a "lower" service.

API has suggested that the Commission create five (5) service pools (Industrial Safety, Emergency Response, Non-Commercial, SMR and General Category). The difficulty with API's proposal is that the creation of a new service category will only lead to disruption of existing users, slowing the transition to narrowband technologies. While the API may be workable with virgin spectrum, it is impossible in the heavily crowded bands which are the concern of this proceeding.

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**PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION**

The Personal Communications Industry Association ("PCIA"),[1] pursuant to Section 1.415 of the Commission's rules and regulations, 47 C.F.R. § 1.415, respectfully submits its Reply Comments in response to the Comments filed in the above-captioned proceeding.

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[1]PCIA is an international trade association representing the interests of both commercial mobile radio service ("CMRS") and private mobile radio service ("PMRS") users and businesses involved in all facets of the personal communications industry. PCIA's Federation of Councils include: the Paging and Narrowband PCS Alliance, the Broadband PCS Alliance, the Specialized Mobile Radio Alliance, the Site Owners and Managers Association, the Association of Wireless System Integrators, the Association of Communications Technicians, and the Private System Users Alliance. In addition, PCIA is the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 and 900 MHz Business Pools, 800 MHz General Category frequencies for Business eligibles and conventional SMR systems, and for the 929 MHz paging frequencies.

## I. BACKGROUND

PCIA's initial Comments were filed in conjunction with the Industrial Telecommunications Association ("ITA"), the Alliance of Motion Picture and Television Producers, the Newspaper Association of American and the Telephone Maintenance Frequency Advisory Committee. The Joint Comments proposed a consolidation of radio services into two pools, one for public safety and one for non-public safety, a so-called "Public Service" Pool. The Joint Comments also addressed coordination procedures and designation of low power channels.

## II. REPLY COMMENTS

PCIA believes that its Reply Comments in this stage of the proceeding present the Commission with a unique view of the land mobile industry. First, PCIA's various Councils represent a cross-view of the land mobile radio industry, encompassing users, radio dealers and manufacturers. In addition, as coordinator for the Business Radio Service, PCIA has extensive experience in coordinating highly disparate users on the same band of frequencies. Thus, while some may question how users with highly different usage patterns and communications needs or competitors in the same business can be expected to utilize the same spectrum, PCIA has been successfully performing such coordinations pursuant to Commission directive for more than a decade. Therefore, PCIA believes that its experience provides significant insight into the Commission's consolidation plan.

It is unfortunate that the land mobile radio industry has been

unable to provide the Commission with the consensus consolidation plan which the Commission requested. In attempting to forge a consensus, PCIA has for three years been proposing to other frequency advisory committees a variety of consolidation plans. Unfortunately, PCIA's efforts have been rejected by a significant number of frequency advisory committees.[2]

A. **The Three Proposed Consolidation Plans Are Inadequate**

In addition to the consolidation plan proposed by PCIA, ITA, et. al., three other consolidation plans were proposed to the Commission. The three plans are variations on plans presented as discussion proposals at the refarming meetings convened by PCIA. While each plan has some merit, the deficiencies with each proposal require PCIA to withhold supporting any of the plans.

The "Coalition" Plan, which would create four pools (Public Safety, Business, Industrial/Utilities and Land Transportation) is needlessly complicated and separates services currently sharing frequencies.[3] There is no demonstrated need for a separate Land Transportation pool, nor is there a sound rationale for separating the Special Industrial Radio Service from other industrial services.[4]

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[2]It should be noted that several frequency advisory committees have been highly supportive of consolidation and PCIA's efforts. Unfortunately, these committees have been in the minority.

[3]For example, Business and Taxi share numerous frequencies (and the actual users share many Business channels), yet the "Coalition" plan puts the frequencies in two separate services.

[4]In addition, it should be noted that each of the "Coalition" members also participated in a Joint Filing with AAR and CASS. In that filing, the group asks that no consolidation take place.

UTC proposes that the Commission create three pools (Emergency Response, Public Service and Business). While UTC's pool proposal could be an acceptable compromise, the limitation of interservice sharing and resale only into "lower services" is completely unacceptable. There is no basis to limit access to available spectrum by ANY user just because UTC deems certain services "special" and worthy of being able to warehouse spectrum. Similarly, service eligibles should not be limited in their ability to share excess capacity. This could result in added costs for utility eligibles in rural areas, which would be unable to share excess capacity with other users and spread the cost of implementing an advanced technology system. The limitation could also inhibit or prevent licensees from being able to "clear" spectrum for exclusive use or advanced technology systems where one or more of the incumbent users is from a "lower" service.[5]

API has suggested that the Commission create five (5) service pools (Industrial Safety, Emergency Response, Non-Commercial, SMR and General Category). The difficulty with API's proposal is that the creation of a new service category will only lead to disruption of existing users, slowing the transition to narrowband

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[5]It should be noted, however, that PCIA supports UTC's request at page 18 of its Comments that applicants should be required to justify their request for spectrum based on internal communications needs, and not be able to license capacity based upon the possibility of finding additional users to justify the spectrum requested. A pre-batched, multiple user system should also continue to be permitted. PCIA believes that the UTC suggestion adequately addresses the legitimate concerns of AICC, AAR, Boeing, MRFAC and ITLA regarding the resale of excess capacity. With this limitation, the Commission need not restrict the resale of excess capacity to licensees.

technologies. While this would be workable with virgin spectrum, it is impossible in the heavily crowded bands which are the concern of this proceeding. Creation of an SMR Pool would involve too much incumbent user migration - too many incumbents would have to be moved to one set of channels or another. This would impact all services, as virtually all types of non-Public Safety users are already licensed in the Business Radio Service. Further, since all non-Public Safety eligibles are already eligible in the Business Radio Service, there is little need for the creation of a General Category.

Designating the former 450 MHz "offset" channels (which are now primary) as commercial spectrum is not a viable option, as demonstrated by the Comments filed by Hewlett-Packard. Many of these channels have more users than the primary channels. Further, contiguous spectrum would not be created. Finally, existing incumbents on the former 450 MHz primary channels would not have the ability to convert to more efficient equipment and utilize 25 kHz bandwidth as a contiguous channel could not be created, locking in the private systems and reducing their spectrum options.

While the rejection of any plan proposed by PCIA or any other group is not per se objectionable, most frequency advisory committees have instead merely rejected **any** consolidation that does not leave their particular group of users in their own, singular pool.[6] These purely parochial positions have prevented any

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[6]See, for example, the Comments of the Association of American Railroads ("AAR").

meaningful compromise which could be submitted to the Commission as a true consolidation plan. Examples of these positions can be seen in numerous Comments submitted by various committees. Each committee or company supporting the committee believes that its users are "unique" and therefore requires a coordinator who is uniquely familiar with that service,[7] or a committee will not be able to compete with other coordinators,[8] or that the service provides safety[9]

PCIA believes that examination and discussion of the various rationales presented by some frequency advisory committees for refusing to agree to a consolidation plan may prove useful in providing the Commission with context in which to evaluate Comments in this proceeding. Thus, the following represents a summary of some of the arguments which have been presented to the Commission for rejecting consolidation proposals.

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[7]See, for example, the Comments of the Coalition of Industrial and Land Transportation Radio Users ("Coalition") at 4; Association of American Railroads ("AAR") at 13; Union Pacific at 4; Aeronautical Radio, Inc. ("ARINC") at 12.

[8]Union Pacific at 6.

[9]Alarm Industry Communications Committee ("AICC") at 5; American Automobile Association ("AAA") at 5; International Taxicab and Livery Association ("ITLA") at 4; Forest Industries Telecommunications ("FIT") at 3; UTC at 4; Manufacturers Radio Frequency Advisory Committee, Inc. ("MRFAC") at 3-4; Aeronautical Radio, Inc. ("ARINC") at 7; American Trucking Association ("ATA") at 2; American Petroleum Institute ("API") at 7; Union Pacific at 13.

## B. Arguments Opposing Consolidation Must Be Rejected

### 1. The Current System No Longer Functions Well

It has been argued that the current coordination system, in place for 30 years, continues to function as well as any other system which has been proposed.[10] This argument was often presented during the frequency advisory committee meetings and been stated to the Commission by various parties since the outset of this proceeding.

However, the Commission has repeatedly found that the current pooling system has significant problems. While spectrum such as the Business Radio Service frequencies are severely congested, other channels are utilized by far fewer users without justification or need. For example, AASHTO represents that forty-four percent (44%) of the coordinations its performed from July 1994 through June 1995 were for non-eligibles in the Highway Maintenance Service.[11] Clearly, there is are far fewer eligibles in this service needing additional spectrum and unused spectrum allocated for the service, resulting in other applicants needing to spend substantial fees (and time) obtaining inter-service coordination.

The cause of the disparity in distribution of users between services can be attributed to numerous factors, including the

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[10]American Association of State Highway and Transportation Officials ("AASHTO") at 1; "Final Statement" of American Trunking Associations ("ATA"), AAR, FIT, ITLA, Manufacturers Radio Frequency Advisory Committee, Inc. ("MRFAC") and Central Alarm Station Association ("CASA")("Final Statement") at 4; AICC at 4; AAA at 4.

[11]Comments of AASHTO at 1.

administrative difficulties and expense of obtaining interservice coordination and coordinator protection of "their" spectrum. As the Commission noted, there is a need to ".... generally equalize the opportunity cost of spectrum usage across the PLMR environment" and maintaining 20 radio services is administratively burdensome.[12]

2. **Interservice Sharing Should No Longer Be Commonplace**

Interservice sharing was intended to be utilized in those rare instances where spectrum allocations did not adequately address a local situation, resulting in unused spectrum in one service, and too many users in another. However, the coordination system which presently exists results in interservice sharing becoming the rule, not the exception. AASHTO's coordination activities, discussed above, illustrates this point.[13] Unfortunately, AASHTO, when claiming that interservice sharing works,[14] fails to detail the added expense and time which interservice sharing entails.

AAR uses an example of an interservice sharing request filed by UTC to demonstrate that consolidation would result in interference to safety systems.[15] In the example, UTC was not aware that the existing licensee on the channel utilized the radio system for repair of railroad track, and that such activity generally did

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[12]Report & Order and Further Notice of Proposed Rule Making, 60 FR 37152 (July 19, 1995) at para. 50.

[13]The Commission may wish to survey the other frequency advisory committees to determine whether such a high percentage of interservice sharing requests (compared to in-service requests) exists in numerous services.

[14]AASHTO Comments at 1.

[15]Comments of AAR at 17.

not take place over the winter months, and that the existing licensee utilized carrier squelch on the system which would not be compatible with the applicant's use of Continuous Tone Coded Squelch.

However, the example actually points out the difficulties with interservice sharing that could be solved with pool consolidation. In researching available frequencies, UTC only had the benefit of the Commission's database, which did not include anything other than licensed parameters. As a result, UTC performed work, AAR performed work, and the applicant spent time and money for a proposal which could not be licensed. If there had been consolidation of the services, UTC would have had database information available, in the form of some sort of history or explanatory comments in the file, which would have explained the use of the system by the licensee. Standardized coordination procedures would ensure that a different frequency would have been coordinated in this specific case. This would have resulted in a significant time and money savings to the coordinators and the applicant.

While the present regulatory system has served the land mobile radio industry well for decades, the need for 20 radio services has past its useful life cycle. As discussed more fully below, the advent of exclusive channels further reduces the need for separate radio services. Where channels are not shared or there is sufficient geographic spacing between disparate users, the type of user or use of the spectrum is irrelevant, the only consideration

is sufficient co-channel separation. In such a licensing environment, differentiation between a taxicab user and an oil rig user is unimportant. Coordination must provide sufficient geographic separation between the systems, but the amount of use or whether the mode is base/mobile or repeater oriented does not need to be considered once the geographic spacing has been achieved.

The suggestion that each "special" radio service needs its own "special" coordinator is incorrect. There is no reason that the UTC coordinator, to use the example above, could not become as quickly familiar with specialized uses of spectrum by railroad users as quickly as with the specialized uses by utility companies. In fact, PCIA's coordination team must be familiar with ALL types of users, because every non-public safety eligible is eligible in the Business Radio Service and each type of user in fact utilizes Business Radio spectrum. Thus, PCIA's breadth of experience with different types of users can be replicated by each of the other coordinating committees.[16]

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[16]Similarly, ARINC's request that it now be designated as the sole frequency coordinator for the aeronautical frequencies is unnecessary. ARINC does not point to any difficulties with PCIA coordination of the channels since 1986, only that the narrowbanding of the channels will increase the number of coordinations performed. PCIA (as well as any other coordinator in a consolidated pool) will be more than able to handle the additional workload, and, standardized coordination procedures will ensure protection of vital airline functions in the same manner that PCIA's standardized coordination procedures have protected aeronautical users on these same frequencies for the past 10 years.

3. **There Will Not Be An Additional Workload From Consolidation**

Some smaller coordinators have expressed a concern to PCIA that consolidation of the radio services will result in the need for the coordinator to review **every** application that gets filed for the entire pool which have already been coordinated by another frequency advisory committee. The coordinators mentioning this issue believed that it was necessary to ensure each application's compliance with the Commission's Rules as well as the proposed system's compatibility with existing users on the selected frequency. The expected additional workload would be without compensation, allegedly driving smaller frequency advisory committees out of business.

PCIA would agree that the need to review **every** application in a consolidated pool would be devastating for most frequency advisory committees. If PCIA applied the same rationale to its own coordination staff, coordinations would slow to a crawl and costs would rise dramatically.

However, the fact is that such applications will not need review beyond the initial coordinator. Through the standardization of coordination procedures, the need for review by multiple coordinators is unnecessary. While this process does require the establishment of coordination procedures by the Commission and frequency advisory committees (any consolidation will require such procedures) PCIA has already instituted similar coordination

procedures in the 800 MHz band, and the procedures do work.[17]

4. **Each Service Class Need Not "Control" Its Own Radio Spectrum**

An argument was raised by at least one frequency advisory committee that the separate industry needed to control the radio spectrum in its service.[18] The association could then control improper coordinations which would jeopardize radio users in the service.

The Commission's Rules already provide a remedy for this situation. Coordinations are only recommendations; the Commission is ultimately responsible for the grant of the license. Objecting parties may oppose the grant of the application, pursuant to Section 1.41 of the Commission's Rules. A pattern of poor coordinations by a frequency advisory committee would be grounds for decertification of that committee.[19] Certainly, mutual coordination procedures such as those discussed in PCIA's and ITA's initial Comments should minimize instances where objections are raised by other frequency advisory committees.

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[17]It should be noted that the new rules adopted by the Commission in this proceeding may require additional applications review by frequency advisory committees, particularly in the areas of adjacent channel interference and maximum power permitted.

[18]Comments of AAR at 15.

[19]Report and Order, PR Docket No. 83-737, FCC 86-143, released April 13, 1986 at para. 127.

5. **Consolidation Can Occur Even Where Radio Use Is "Unique"**

A concern has been expressed that consolidation is not possible because of the differences between the users in the pools.[20] While this may have been true in the past, the reality of today's radio spectrum use clearly demonstrate that this concern is unjustified.

The ability to achieve exclusive use of channels negates considerations of the differences in spectrum use by multiple licensees. Even in a shared radio environment, the only consideration is sufficient co-channel and adjacent channel geographic separation between incompatible users. Further, to the extent that spectrum is shared, PCIA has shown for years that it is possible to coordinate disparate users, all eligible for the frequencies in the pool, and minimize interference. Users of Business Radio spectrum, unfortunately the most crowded service, include oil companies, taxicab companies, utilities, manufacturers, delivery companies, and everything in between. In fact, PCIA most likely coordinates more applications for users in any particular eligibility category than the user's "home" coordinator. Thus, the argument that users cannot share the same pool of frequencies is not true; its been done for years.

It is important that the Commission differentiate between consolidation of the user pools, and consolidation of frequencies.

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[20] See, for example, the Comments of the Coalition of Industrial and Land Transportation Radio Users ("Coalition") at 4; Association of American Railroads ("AAR") at 13; Union Pacific at 4; Aeronautical Radio, Inc. ("ARINC") at 12.

In other words, the Commission can consolidate the user pools, while at the same time maintaining the service and/or power restrictions on individual frequencies. In this manner, incompatible users can be eligible for the same band of channels, and be coordinated with the confidence that use on the channel (if shared) will be compatible. PCIA believes that this fully addresses the concerns of some Commenters regarding compatibility of users.[21] In fact, disparate users often make the best co-channel licensees, especially where the utilization of the channel by each licensee takes place at different times of the day or year.

PCIA wishes to emphasize that the radio services are consolidating in this proceeding, NOT the frequency advisory committees. By retaining the existing eligibility rules for individual frequencies, any necessary separations between different types of users can be maintained on any frequency critical to public safety. As discussed previously, PCIA recommends that the Commission keep the current "footnoted" frequencies for "private safety" users so that, for example, railroad eligibles utilize emergency response frequencies exclusively and petroleum eligibles keep oil spill clean-up frequencies exclusively. In this manner,

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[21]For example, the Coalition Comments claim at page 4-5 that the Taxi and Business services cannot be consolidated because of the alleged different power output and that "Business Radio eligibles are typically licensed for one channel only"(a situation which only exists in the VHF band). However, the current shared spectrum between Taxi and Business in the VHF Band perfectly illustrates how geographic separation of users prevents interference. Such coordinations do not need to be performed by separate coordinators. In fact, as detailed by PCIA in PR Docket No. 88-373, hundreds of Taxi users utilize Business Radio spectrum, all coordinated by PCIA.

the concern that certain users must have immediate access to certain channels for emergencies is addressed.

This form of restricted use frequencies should be further protected in the coordination process via coordinating around "Protected Service Areas" ("PSAs"), discussed in PCIA's and ITA's initial Comments. Through establishment of coordination procedures that ensure that certain classes of users or certain types of uses do not share the same channel (and that adequate co-channel/adjacent channel separation is maintained) a variety of users can utilize the same frequencies without interference concerns.

This two pool approach maximizes spectrum efficiencies. Since technology doesn't discriminate by the type of use, coordination procedures can assign spectrum to the greatest number of users in the most efficient manner. At the same time, the unique operating requirements of long line (or ribbon) systems is recognized and protected, without discriminating against any type of user. Interservice sharing is eliminated, and coordinator competition can take place to the maximum extent possible.

The PCIA proposal is also most effective for existing users. One of the problems with any reduction in service pools is that some incumbent users ultimately wind up using spectrum for which they are no longer eligible, or the system is required to be moved to another channel. By consolidating into two pools, most incumbent users may remain on their existing frequency.

### C. **Channel Exclusivity**

It is clear from the Comments filed that exclusivity, whether de facto or de jure, is a worthy goal.[22] As pointed out by APCO and AAR, many services already enjoy such a radio environment, and PCIA agrees with AICC that incumbent users should have the ability to make their allocations exclusive prior to the acceptance of new applications.

Although the American Mobile Telecommunications Association ("AMTA") believes that exclusivity will be difficult to achieve in the radio bands below 470 MHz,[23] licensees should still be afforded the opportunity to obtain exclusive licenses where possible. While AAA believes that adequate incentives already exist to encourage users to upgrade to narrowband equipment,[24] PCIA believes that additional incentives are necessary. The opportunity to achieve channel exclusivity is a powerful incentive to encourage users to convert their systems to more spectrally efficient operations.

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[22] See, for example, the Comments of UTC at 14; API at 7; ATA at 4.

[23] AMTA Comments at 7.

[24] Comments of AAA at 4.

## III. **CONCLUSION**

WHEREFORE, the Personal Communications Industry Association respectfully requests that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

**PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION**

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